

SENATE CHAMBER, }
Sept. 19, 1866. }

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called—quorum present.

Journal of yesterday read and adopted.

Senator Record reported and recommended the passage of a bill entitled "An Act to authorize the Police Court of the county of Denton, to issue bonds of the county for the purpose of erecting public buildings for the county."

Also, made the following report:

Hon. G. W. Jones, President of Senate:

The Judiciary Committee, to whom was referred a bill to be entitled "An Act authorizing Robert S. Gould, Judge elect of the 13th district, to hold a special term of the District Court in, and for Robertson county," have had the same under consideration, and have instructed me to report the same back to the Senate, with the following amendments, and when so amended, they recommend its passage.

Amend section 1st, by striking out "Robert S. Gould," and insert "the Judge."

Insert, "section 2, the Clerk of the District and County Courts shall, thirty days prior to the time fixed for holding said special term, draw from the jury box twenty-four persons to serve as jurors at said special term, as now provided by law for regular terms of the District Courts, and the venire drawn by the County Court for the regular term of said court to serve as grand jurors, shall constitute the venire, and shall serve as grand jurors for said special term, and shall be summoned by the proper officer, and shall be subject to all penalties as is prescribed by law, and all process heretofore issued and made returnable to the regular term shall be returnable to said special term, and the proceedings, orders and judgments of said special term shall be as valid as if made or rendered at a regular term of said court."

Make section 2 as now in the bill "section 3," and section 3 "section 4."

J. K. P. RECORD, Chairman.

Also, made the following report:

Hon. G. W. Jones, President of Senate:

The Judiciary Committee, to whom was referred a bill to be entitled "An Act to organize the County Courts, and to define their powers and jurisdiction," have had the same under consideration, and a majority of the committee have instructed me to report the bill back to the Senate, and recommend the adoption

of the following amendments, and the passage of the bill when so amended :

Amend section 1st, by striking out in the 13th and 14th lines from the bottom, the words "and less than two thousand."

Strike out the 11th, 10th, 9th and 8th lines from the bottom of the same section.

In section 3, in the fifth line from the top, strike out the words "with the District Court."

In the eighth line, same section, strike out "escheats."

Strike out of same section the words "excepting such as may be exclusively cognizable by Courts of Justices of the Peace."

Add to the end of sections 3, "or actions of slander, or to enforce vendors liens, or for the foreclosure of mortgages on land."

In section 4, third line from the bottom, strike out "to" and insert "may."

In section 6, in the sixth line from top, after the word "writs," insert, "and all other writs necessary to enforce their own jurisdiction." Strike out section 9.

In section 10, line 16 from top, between the words "have" and "notice," insert the words "one day."

In line 24, same section, strike out "writing" and insert "record," and in line 33, after the word instruments, insert "of record."

In section 12, in fifth line from the top, strike out "twenty," and insert "ten," and in the ninth and tenth lines from the top, strike out "to be paid in the currency of the country." Strike out section 13.

In section 14, after the word "term" in the sixth line from the top insert, "and after being discharged, or after the cause is disposed of, in which the witness is called to testify."

Also, strike out of same section the words "as contemplated in the two preceding sections."

In section 15, strike out the word "now," in the fifth line from the top.

And in same section, strike out the words "or that he is a miller grinding for the public and personally employed as such."

Also, in same section, in line four from the bottom, between the word deposition and the word "when," insert "of witnesses residing in the county authorized to be taken by this section."

In section 17, in seventh line from the bottom, strike out the words "two dollars," and insert "one dollar and fifty cents."

Also, in same section strike out the words "in specie, or its equivalent in currency."

In section 18, strike out all after the word dollars, in the third

line from the bottom, and insert, "to be taxed in the bill of costs and collected as other costs of suit."

In section 22, after the word "dollars," in the tenth line from the bottom, insert, "provided no constitutional question is involved."

In section 24, in second line from the top, strike out the words "except the verbal," and insert "than a," and after the word "court" in the third line, insert "to be entered on record." Strike out section "25" and insert :

SEC. 25. In appeals from County Courts to the District Court, no new cause of action shall be set up, or offset pleaded that was not set up or pleaded in the County Court, but in all other respects proceedings in the District Court shall be governed by the rules regulating proceedings in the District Court.

In section 8, in second line from bottom, after the word "courts" insert, "and Justices of the Peace." Strike out section 29 and section 30.

In section 34, in the last line after the word "filed" insert "in the office of the Clerk of the County Court;" and at the end of the section add, "before any warrant shall be issued."

In section 35, strike out all after the word "thereof," in the seventh line from the top, to the word "and," in the fifth line from the bottom, and insert, "whenever it shall occur that the term of the County and District Court in any county shall commence on the same day, it shall be the duty of the Judge of the County Court, by an order entered of record, to order that no jury shall be summoned, and to adjourn said term of the County Court to the next regular term, and to order all process issuing out of said Court to be returnable to the next regular term."

In section 38, strike out all after the word "*de novo*," in seventeenth line from the top. Strike out section 39 and insert :

SEC. 39. In the trial of all criminal causes in the County Court, when the defendant is convicted, a jury fee of five dollars shall be taxed in the bill of costs.

In section 42, strike out all after the word "county" in the fourth line from the top, to the word "the," at the commencement of the seventh line from the bottom, and insert "of two hundred and fifty dollars."

In section 44, strike out the words "its passage," and insert the "thirty-first day of December, A. D. 1866."

J. K. P. RECORD, Chairman.

Senator Guinn moved to take up bill relating to the organization of County Courts, and defining powers and jurisdiction of same.

Carried.

Senator Shelley moved that 200 copies of the bill be printed.

Carried.

On motion of Senator Bumpass, Senator Cook was added to Committee on Printing.

Senator Stell made the following report :

Hon. G. W. Jones, President of Senate:

The Judiciary Committee, to whom was referred a bill to be entitled "An Act for the further assurance of titles to purchasers at judicial and other sales," have duly considered the same, and a majority of said committee have instructed me to report it back with the following amendments :

Amend section 2d by striking out of second line the words "three times" and insert "for four consecutive weeks prior to the return day."

Also, strike out the second word in third line, being the word "the," and insert "a."

Also, in sixth line, same section, strike out the word "the" and insert "a."

Also, strike out all of said section after the word "cause," in nineteenth line, to the word "papers," inclusive, in the twenty-first line.

Amend section 3d by adding the words, "and the date of the purchase."

Amend section 4th, by adding the words "which monition shall be returnable as other processes when service is made by publication."

Amend section 5th by striking out the first four lines and the word "of," in the fifth line, and insert, "that at the first term of the court after service has been perfected as provided in this act it shall be competent for."

Also, strike out the word "judge," in eighth line, and insert the word "court."

Also, strike out the word "he," in the twelfth line, and insert "the court."

Also, strike out the word "judge," in twenty-third line, and insert "court."

And when so amended recommend its passage.

J. W. STELL, for the Committee.

Senator Yarbrow made the following report :

Hon. G. W. Jones, President of the Senate :

The Committee on Commerce and Manufactures, to whom was referred House bill entitled "An Act to incorporate the Guadalupe Water Company, for the purposes of irrigation,

navigation and manufacturing," having had the same under consideration, a majority of the committee have instructed me to report the bill back to the Senate and recommend its passage, with the following amendments:

Amend the sixth section by substituting for the interlineation after "New Braunfels," "so as not to obstruct nor impede the natural flow of the water of Guadalupe river within said corporate limits without first obtaining the consent of said corporation," as a substitute for the House amendment pasted thereto.

Amend the twelfth section by adding, "that the point of completion of said canal shall be held to be that point at which the said three-fourths of water diverted from said river shall fail to be sufficient for the purposes of irrigation.

J. C. YARBRO, Chairman.

Senator Braswell reports and recommends the passage of House bill entitled "An Act to incorporate the Sabine and Galveston Canal Company."

A message was received from the House announcing the passage of the following bills:

A bill to provide for the protection of the frontier of the State of Texas.

A bill to incorporate Woodland College.

Senator Randolph, for the Committee on Engrossed Bills, reported as correctly engrossed, a bill to authorize Senator R. H. Guinn to receive from the Treasurer the per diem and mileage due to the Hon. James W. Guinn, deceased.

Senator Bumpass offered the following resolution:

Resolved, That the Senate will not act on any private relief bill, or bills for the incorporation of any Railroad Companies, or other parties asking such incorporation, until all other bills of a general character shall have been taken up and disposed of.

Resolution laid over under the rule.

Senator Guinn introduced a bill to relieve the people of Texas from the payment of certain taxes.

Bill read first time and referred to Finance Committee.

Senator Cook moved to take up a bill to enable the Buffalo Bayou, Brazos and Colorado Railway Company to change the present route of their Road, and to purchase the charter, corporate rights and franchise of the Columbus Tap Railroad Company.

Lost.

The following message was received from His Excellency the Governor, which was, upon motion of Senator Guinn, taken up, read and referred to Committee on Finance.

EXECUTIVE DEPARTMENT, }
AUSTIN, Sept. 18, 1866. }

Gentlemen of the Senate, and House of Representatives :

Herewith I transmit for your consideration a communication from the Comptroller, concerning the four per cent. specie tax, levied by an Act of the Legislature of April, 1866.

As this act was passed for the purpose of raising funds to meet the interest accruing upon a portion of the debt contracted for war purposes, and which was repudiated by the Convention, I deem it proper that the Legislature should pass an act to relieve the people from the payment of this tax, and to relieve the Assessors and Collectors who collected it in Confederate notes, and at the same time provide for the dismissal of suits that may have been instituted against Assessors and Collectors, upon their paying over State liabilities or specie where they received such funds.

J. W. THROCKMORTON.

COMPTROLLER'S OFFICE, }
AUSTIN, Sept. 18, 1866. }

Hon. J. W. Throckmorton, Governor &c. :

SIR: According to the Act of April 8th, 1861, authorizing a loan and imposing a specific tax, and the 4th section thereof, requiring Assessors and Collectors to collect four cents upon each one hundred dollars value of property, as a specific tax to pay interest upon the bonds named in said act, the Comptroller instructed the Assessors and Collectors to collect said tax in specie. The most of them collected the tax as instructed, and made due return thereof to this office; some of them collected it in Treasury warrants and Confederate notes and tendered it in payment, and some others neglected or failed to collect it altogether. The Comptroller refused to receive the Confederate money and Treasury warrants in payment of the specific tax, and those several Assessors and Collectors stand charged on the books with the several amounts due for the same. Some of them are among the best Assessors and Collectors of the State, and have been re-elected by the people. As the law now stands, I am compelled to report them defaulters, and consequently they will not be commissioned. You will observe, the act named did not require the collection in specie, and the bonds are repudiated. Allow

me to suggest the propriety of releasing those Assessors and Collectors from these liabilities on their bonds for failing to collect and pay into the Treasury said four cent. specific tax, and that they no longer be regarded as defaulters, and that if re-elected without further disability, the Secretary of State be authorized to commission them; but in all cases, wherein they may have collected said tax, or any portion thereof, in State liabilities, they should be held to a strict accountability and settlement of same. I would further suggest that the Comptroller be authorized to dismiss such suits as have been instituted against Assessors and Collectors for said tax.

Respectfully, &c.,

W. L. ROBARDS, Comptroller.

ORDERS OF THE DAY.

A bill to amend "An Act entitled an act to adopt and establish a Penal Code for the State of Texas," approved August 28th, 1856, and to repeal certain portions thereof, on its third reading, taken up, read and passed.

A bill to repeal An Act entitled an act to be entitled an act authorizing judgment to be rendered in certain cases, requiring property levied upon by execution or sale under deeds of trust or mortgage, to bring nine-tenths of its appraised value," approved March 4th, 1863, on its third reading, taken up and passed.

Upon motion of Senator Blount, a bill to authorize the Police Court of Denton county to issue bonds of the county for the purpose of erecting public buildings for the county, was taken up, read second time and ordered to be engrossed; and upon further motion of Senator Blount, rule was suspended, bill read third time and passed.

Senator Parker moved to take up House bill to enable the Buffalo Bayou, Brazos and Colorado Railway Company to change the present route of their road, and to purchase the charter, corporate rights and franchise of the Columbus Tap Railroad Company.

Carried.

Bill taken up, read second time and passed to a third reading.

Upon motion of Senator Parker, rule was further suspended, bill read third time by caption and passed by a two-third vote:

YEAS—Senators Braswell, Blount, Boyd, Brown, Cook, Coppedge, Foscoe, Guinn, Jowers, Lane, McDade, Nelson, Ney-

land, Parker, Randolph, Record, Reed, Saufley, Selman, Shannon, Shelley, Stell, Truitt and Yarbrow—24.

NAYS—None.

Upon motion of Senator Guinn, House bill to amend the 15th and 16th sections of an act to consolidate in one act and amend the several acts incorporating the town of Rusk, in Cherokee county, approved January 19th, 1858, on its second reading, was taken up, read and passed to a third reading; upon further motion of Senator Guinn, rule was again suspended, bill read third time by caption and passed.

Upon motion of Senator Record, a bill to incorporate the Honey Springs Ferry Company, on its second reading, was taken up, read and ordered to be engrossed; and upon further motion of Senator Record, rule was again suspended, bill read third time by caption and passed by a two-third vote:

YEAS—Senators Braswell, Blount, Boyd, Brown, Bumpass, Cook, Coppedge, Dalrymple, Foscue, Guinn, Jowers, Lane, McDade, Nelson, Neyland, Randolph, Record, Reed, Saufley, Shannon, Shelley, Stell, Truitt and Yarbrow—24.

NAYS—None.

House bill to incorporate the Houston and Harrisburg Turnpike Company, on its second reading, taken up, read and passed to a third reading; and upon motion of Senator Foscue, rule was suspended, bill read third time by caption and passed by a two-third vote:

YEAS—Senators Braswell, Blount, Boyd, Brown, Bumpass, Cook, Dalrymple, Foscue, Guinn, Jowers, Lane, McDade, Nelson, Neyland, Randolph, Record, Reed, Saufley, Selman, Shannon, Shelley, Stell, Truitt and Yarbrow—24.

NAYS—None.

The hour for the consideration of the special order having arrived, the bill for the relief of creditors in certain cases, with the report of the Judiciary Committee, recommending a substitute, was taken up, and pending discussion of the bill, upon motion of Senator Randolph, the Senate adjourned until tomorrow morning at 10 o'clock.

SENATE CHAMBER, }
AUSTIN, Sept. 20, 1866. }

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called—quorum present.

Journal of yesterday read and adopted.